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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,697	08/25/2003	Troy A. Heien	C07/11	2472

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/647,697

Applicant(s)

HEIEN, TROY A.

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) 7, 8 and 11 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6, 9 and 10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 7, 8, and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 2, 2004.
2. Claims 1, 4-6, 9, and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-20 of U.S. Patent No. 6,609,719. Although the conflicting claims are not identical, they are not patentably distinct from each other because every claim limitation currently recited is described in the prior patent claims.
3. Claims 1-6, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, applicant claims a primary wheel with a planar member having at least four stub axles at fixed locations, a secondary wheel on each axles and the diameter of each wheel being greater than the diameter of each wheel. However, that does not accurately describe the elected embodiment. In the elected embodiment, as seen in Figure 2, the planar member 12 may have only two axles (as shown in Figure 2) mounted to either planar member 12 or 14, and each wheel has a smaller diameter than the distance between the stub axles on a given planar member. Therefore, correction is required to make the claim recitations consistent with the disclosed elected embodiment.

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In claim 6, it is not clear how the recitation "comprises a single planar member" is limiting. If applicant means to claim only one planar member then the recitation should be "consists of a single planar member". However, the elected embodiment includes two planar members, so it would be inaccurate to claim a single member. Therefore, it is not clear what applicant intends to claim.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacBeth in view of Goguey.

MacBeth shows, in Figure 4, a wheel assembly with two generally round, planar members or frames B, C, and two overlapping sets of wheels E mounted there between. Each wheel is mounted to an axle extending inwardly from the planar members and at least eight wheels are shown.

MacBeth fails to show the wheel mounted to stub axles.

Goguey shows a wheel assembly with two circular, planar members 7, 7a, and stub axles extending inwardly from at least one planar member and having two sets of overlapping wheels mounted on the axles.

It would have been obvious to one of ordinary skill in the art to mount the wheels in MacBeth on stub axles, as taught by Goguey, in order to reduce the overall weight of the wheel assembly.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ritchie shows a wheel with two overlapping sets of wheels.


<sup>1765</sup>  
Heien<sup>1765</sup> is applicant's earlier patent.

Jones shows a wheel with six secondary wheels.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/13/04  
Anne Marie M Boehler  
Primary Examiner  
Art Unit 3611